

**REMARKS**

The Examiner's action and the grounds for rejection under 35 USC 101 have been carefully considered and the independent claims 16 and 23 have been amended to conform to the requirements of 35 USC 101 and in accordance with the Examiner's helpful suggestions. Thus, in connection with the rejection of claims 23-29, claim 23 has been amended to recite that the arithmetic unit and the deriving means each comprise software on a computer-readable medium. It is noted that the specification does not define the computer readable medium as a "signal", "carrier wave" or "transmission medium." With respect to the rejection of claims 16-22 as not falling within one of the four statutory categories of invention, claim 16 has been amended to define the captured signals as signals produced by an image rendering sensor provided with color capability which scans at least a section of the item under test. See, specification at page 7, lines 16-20. This is in accordance with the requirement of *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008) that if the article transformed is data, to be patent-eligible subject matter it must be data which represents physical objects or substances (such as X-ray attenuation data produced in a two dimensional field by a computed tomography scanner, citing *In re Abele*, 684 F.2d 902, 908-09 (CCPA 1982) as contrasted with data representing public or private legal obligations or relationships, business risks, or other such abstractions.

It is believed that in view of the amendments to claims 16 and 23, claims 16-29 are in condition for allowance or examination on the merits.

Respectfully submitted,

  
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